

Amendments to the Drawings

The attached sheets include changes to Figs. 1–3 and replaces the original sheets with Figs.1–3.

Figures 1–3 have been amended to add descriptive legends.

Attachment: (3) Replacement sheets

REMARKS

Applicant would like to thank the Examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office Action, and the following remarks are presented for the Examiner's consideration.

In the Office Action dated March 10, 2005, the Examiner (without explanation) drew a line through reference Q on the IDS submitted September 14, 2001. As explained in MPEP § 609.04(a)III:

“Where the information listed is not in the English language, but was cited in a search report ... by a foreign patent office in a counterpart foreign application, the requirement for a concise explanation of relevance can be satisfied by submitting an English-language version of the search report ... which indicates the degree of relevance found by the foreign office. This may be ... merely an "X", "Y", or "A" indication on a search report.”

In the present case, a copy of a PCT international search report for a counterpart application was submitted indicating the relevance of the reference. This was noted on the form 1449. Therefore, the reference should be considered by the Examiner and Applicant's request an initialed copy of the form 1449 confirming that the reference has been considered.

The drawings have been objected to for failing to show the described labels on the drawings. Figs. 1–3 have been amended to add descriptive labels.

Claims 1, 11, and 14 were rejected under 35 U.S.C. 112, first paragraph. In the Advisory Action dated December 9, 2005, the Examiner indicated that the previous reply overcame these rejections without amendment. The arguments, therefore, are not repeated here.

Claims 11–13 were rejected under 35 U.S.C. 102(b) over U.S. Patent No. 5,721,783 to Anderson. For the following reasons, the rejection is respectfully traversed.

Regarding claim 11, Anderson does not teach “the signal being transmitted wirelessly through an information channel from one of the at least one transmitters to the receiver;” and “means for generating and transmitting configuration parameters...the configuration parameters being transmitted independent of the signal and wirelessly through a control channel independent of the information channel,” as required. As claimed, these limitations require two channels: one for transmitting the signal and one for transmitting the configuration parameters *independent of the signal*. Anderson does not teach a channel over which configuration parameters are received. Therefore, since every limitation of the claim is not taught, claim 11 and its dependent claims 12 and 13 are not anticipated by Anderson. The Advisory Action dated December 9, 2005, contends that claim 11 does not support the arguments. Applicants disagree, but claim 11 has been amended to explicitly recite that the control channel is independent of the information channel to further support the arguments.

Claims 1, 3–4, 6–10 and 18–20 were rejected under 35 U.S.C. 103(a) over Anderson in view of U.S. Patent No. 5,710,819 to Topholm. For the following reasons, the rejection is respectfully traversed.

Regarding claim 1, neither Anderson nor Topholm nor any combination thereof teaches or suggests “transmitting configuration parameters through a control channel independent of the signal transmitted through the information channel,” as required. **The Examiner did not address this argument in the Advisory Action dated December 9, 2005.** Instead the Examiner argued that it would be obvious to combine the references. As discussed in the next paragraph, it would not be obvious to combine the references, but even if it were, the combination would not result in the invention. The Examiner acknowledges that Anderson does not teach such a control channel for transmitting configuration parameters, and thus Topholm is cited for teaching this limitation. Topholm teaches a control channel, but does not disclose or suggest that it

contains configuration parameters to configure the information channel, as in claim 1. In other words, the signals sent over Topholm's control channel are unrelated to the configuration of the information channel. Thus, even if Anderson and Topholm were combined, the resulting combination would still not teach or suggest using the control channel as claimed.

Motivation to combine references must be found in the references or in the ordinary skill in the art. The Examiner cites as motivation to combine Anderson and Topholm the fact that both references teach a hearing aid with a control device and that the combination would result in a hearing system that runs faster. The Examiner has cited nothing in the references (or anywhere else) showing that this is true. (Indeed, the application states that an advantage is that frequency changes can be made faster, but does not state that communication is faster.) Therefore, the Examiner's argument fails for two reasons: 1) there is no evidence that the combination would be faster and 2) more importantly, this argument does not show motivation to combine the references, but rather an alleged advantage of the combination **after the combination has been made**. Every combination of elements has the advantages of the combined elements. So, according to the Examiner's logic, there is motivation to make every combination of elements that has an advantage and, therefore, no invention that provides an advantage would be patentable. Again, the Examiner must cite evidence that motivation existed **before** the combination was made and the Examiner has failed to do so. Therefore, there is no basis for combining Anderson and Topholm to make the rejection and the rejection should be withdrawn.

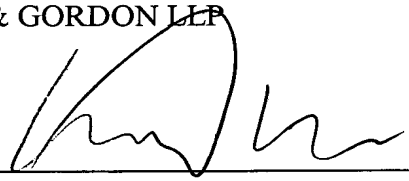
In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

Appln. No. 09/664,273
Amdt. dated January 25, 2006
Reply to Final Office Action dated August 25, 2005

If there are any additional fees resulting from this communication, please charge same
to our Deposit Account No. 16-0820, our Order No. 32978.

Respectfully submitted,

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